

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: COMMUNITY BANK OF NORTHERN
VIRGINIA SECOND MORTGAGE LENDING
PRACTICES LITIGATION

MDL No. 1674

Case No. 03-0425

Case No. 05-0688

Hon. Arthur J. Schwab

THIS DOCUMENT RELATES TO ALL
MDL ACTIONS

**NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT AND SETTLEMENT HEARING**

*A federal court has authorized this Notice. This is not a solicitation from a lawyer.
Please read this Notice carefully and completely.*

TO: ALL PERSONS NATIONWIDE WHO OBTAINED A SECOND OR SUBORDINATE RESIDENTIAL, FEDERALLY RELATED, NON PURCHASE MONEY MORTGAGE LOAN FROM COMMUNITY BANK OF NORTHERN VIRGINIA ("CBNV") THAT WAS SECURED BY RESIDENTIAL REAL PROPERTY USED AS THEIR PRINCIPAL DWELLING FOR THE PERIOD MAY 1998-DECEMBER 2002.

THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.

- A class settlement has been proposed in the above-identified multi-district litigation related to settlement charges and disclosures on certain second mortgage loans made by Community Bank of Northern Virginia ("CBNV"), a state chartered bank headquartered in northern Virginia.
- CBNV no longer exists, having been acquired by Mercantile-Safe Deposit and Trust Company ("Mercantile") (a wholly owned subsidiary of Mercantile Bankshares Corporation, a national bank formerly headquartered in Baltimore, Maryland) in 2005. In 2007, PNC Financial Services Group, Inc. (the parent of PNC Bank, N.A. ("PNC"), a national bank headquartered in Pittsburgh, Pennsylvania) acquired Mercantile. PNC had no contact with any of the events or the individuals surrounding this action during the 1998-2002 class period and did not itself originate, fund, or purchase any of the second mortgages at issue in this litigation.
- The United States District Court for the Western District of Pennsylvania (the "Court") has entered an order preliminarily approving the settlement. This settlement makes available cash relief to a previously certified class of borrowers who entered into second mortgage loan agreements with CBNV (the "CBNV General Class"). The final amount of the class-wide cash relief, as well as the allocation to the various subclasses and the amount of fees to be paid class counsel from the total amount awarded, will be determined by an alternative dispute resolution ("ADR") procedure approved by the Court. Members of the CBNV General Class are eligible to receive money after the settlement is approved, the ADR procedure is conducted, and the individual payment amounts are calculated, as described below. If you qualify, you will receive a cash payment. You can elect to exclude yourself from the settlement or object to it, as described below.
- The settlement resulted from a mediation conducted by both a mediator selected by Plaintiffs and PNC, and the assistance of the Federal Judge to whom this case is assigned, whose participation was jointly requested and agreed to by both parties. The mediator and the Court facilitated negotiations between PNC and the CBNV General Class, which is asserting class action claims arising from certain CBNV loans in the above-captioned court proceeding, pending in the United States District Court for the Western District of Pennsylvania (the "MDL Litigation"). This settlement only involves PNC and does not affect CBNV General Class claims against any other entity, in the MDL Litigation or otherwise.
- Your legal rights are affected whether you act or do not act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING AT THIS TIME	If you do nothing, you are agreeing to participate in the settlement and you will remain a member of the CBNV General Class. If the settlement is approved and you qualify, a check will be mailed to you, after the ADR procedure is conducted and the individual payment amounts are calculated. By selecting this option, you are giving up your rights to sue CBNV and PNC for the same claims asserted by the Plaintiffs in the MDL Litigation.
EXCLUDE YOURSELF	If you ask to be excluded from the CBNV General Class, you will not receive any cash payments from the settlement. This is the only option that allows you to proceed against CBNV or PNC concerning claims that were, or could have been, asserted in the MDL Litigation. You may consult with and retain separate and independent counsel at your own expense to pursue your claims individually. If you ask to be excluded, you will no longer be represented by Class Counsel.
OBJECT	You may participate in the settlement, but write to the Court about why you do not like it. You can only object to the settlement if you are a class member and have not excluded yourself.
GO TO A HEARING	You may ask to speak in Court about the fairness of the settlement.

- These rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court still has to decide whether to grant final approval of the settlement. No payments will be made if the Court does not grant final approval of the settlement.

1. Why did I get this notice?

Mortgage records show that CBNV originated and/or made a second mortgage loan to you between May 1998 and December 2002.

2. What is a class action and who is involved?

In a class action, one or more people called “Class Representatives” sue on behalf of people who have similar claims. All of these people are a “Class” or “Class Members.” The Class Representatives who sued – and all the Class Members like them – are called the Plaintiffs. The company which the Class Representatives sued is called the Defendant. One court resolves the issues for all Class Members, except for those who choose to exclude themselves from the Class.

In this case, the Court has previously certified the CBNV General Class, meaning that the Court has permitted the CBNV General Class to litigate their claims collectively, as a class action. The CBNV General Class has asserted claims that are being resolved through this settlement, which has been preliminarily approved by the Court. The Court has decided that, subject to final approval, the claims can be resolved and settled on a class-wide basis.

3. What does the lawsuit complain about? What is the Defendant’s response?

Several cases, which were ultimately combined into this proceeding, were filed against CBNV and others beginning in 2001. Plaintiffs allege, among other things, that in connection with the origination of second mortgage loans, CBNV violated the Real Estate Settlement Procedures Act (“RESPA”), the Truth In Lending Act (“TILA”), the Home Ownership and Equity Protection Act (“HOEPA”), and the Racketeer Influenced and Corrupt Organizations Act (“RICO”).

Defendant PNC, as successor to CBNV, denies that it or CBNV engaged in any wrongful conduct or that it or CBNV violated the law in any way in making a loan to you. In fact, PNC contends that the material factual allegations in the consolidated complaint never occurred. PNC also contends that it has several defenses to the claims asserted in this litigation and that it would prevail in this litigation.

4. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or PNC. The Plaintiffs believe they could have prevailed at a trial and been awarded damages. PNC believes the Plaintiffs would not have prevailed at trial and would have been awarded nothing. But there was no trial. Instead, both sides agreed to a settlement whereby three neutral panelists (the "Panel") will consider the evidence and arguments of the parties as to the total valuation of the case to determine which settlement amount they will select. The three Panel members were selected by the Court from suggestions submitted by the Plaintiffs and PNC. The Panel members have extensive litigation and arbitration experience and one Panel member is a former federal judge in the United States District Court for the Western District of Pennsylvania.

The Panel will choose as the final settlement amount either the amount proposed by PNC (\$24 million) or the amount proposed by the CBNV General Class (\$70 million), whichever it deems closer to its total valuation of the case. The decision of the Panel must be unanimous. From this ADR procedure, the CBNV General Class is guaranteed to receive \$24 million and will have an opportunity to persuade the Panel that the CBNV General Class should be awarded \$70 million. The terms of the settlement require that the Panel must choose either \$24 million or \$70 million as the appropriate award. The Panel will also determine the allocation of the money between the Sub-Classes defined below.

As with all settlements, the parties have assessed their litigation risks and agreed on a compromise. This settlement benefits the Class in two primary ways. First, even if the Panel unanimously accepts all of PNC's arguments, and therefore that no damages should be awarded, the General Class will still receive the benefit of a \$24 million settlement amount. Second, if the Panel agrees with the liability and higher damages arguments of the General Class, then the General Class will receive the benefit of a \$70 million settlement amount. Since the amount selected will be determined by the Panel's own objective assessment of the merits of the claims and defenses presented, attorneys for both the General Class and PNC believe that whichever number is selected by the Panel is best for all Class Members and will constitute a fair, reasonable and adequate settlement of all claims at issue.

5. How do I know if I am part of the settlement?

You are a member of the CBNV General Class and a member of two or more Sub-Classes depending on the date of your loan, if:

- (i) you entered into a loan agreement with Community Bank of Northern Virginia; and
- (ii) your loan was secured by a second mortgage deed or trust on residential property located in the United States.

6. How are the General Class and Sub-Classes Defined?

By Order dated July 31, 2013, and as amended on October 27, 2015, the Court certified (defined) the following General Class and Sub-Classes of persons in this case, which decision was affirmed by the United States Court of Appeals for the Third Circuit in July 2015:

THE GENERAL CLASS ("CBNV General Class")

All persons nationwide who obtained a second or subordinate, residential, federally related, non purchase money, mortgage loan from CBNV that was secured by residential real property used by the Class Members as their principal dwelling, for the period May 1998-December 2002.

THE SUB-CLASSES

Sub-Class 1: (RESPA ABA Disclosure Sub-Class) – All persons nationwide who obtained a second or subordinate, residential, federally related, non purchase money, mortgage loan from CBNV that was secured by residential real property used by the Class Members as their principal dwelling for the period May 1998-October 1998.

Sub-Class 2: (RESPA Kickback Sub-Class) – All persons nationwide who obtained a second or subordinate, residential, federally related, non purchase money, mortgage loan from CBNV that was secured by residential real property used by the Class Members as their principal dwelling for the period October 1998-November 1999.

Sub-Class 3: (TILA/HOEPA Non-Equitable Tolling Sub-Class) – All persons nationwide who obtained a second or subordinate, residential, federally related, non purchase money, mortgage loan from CBNV that was secured by residential real property used by the Class Members as their principal dwelling for the period May 1, 2000-December 2002.

Sub-Class 4: (TILA/HOEPA Equitable Tolling Sub-Class) – All persons nationwide who obtained a second or subordinate, residential, federally related, non purchase money, mortgage loan from CBNV that was secured by residential real property used by the Class Members as their principal dwelling for the period May 1998-April 30, 2000.

Sub-Class 5: (RICO Sub-Class) – All persons nationwide who obtained a second or subordinate, residential, federally related, non purchase money, mortgage loan from CBNV that was secured by residential real property used by the Class Members as their principal dwelling for the period May 1998-December 2002.

7. I'm still not sure if I am included.

If you are still not sure whether you are included in the CBNV General Class or Sub-Classes, you can ask for free help to determine your status. You can call (800) 330-2581, (800) 330-2591, or (800) 467-5241, or email contact@carlsonlynch.com or cbnv@wbsvlaw.com.

8. What if I have previously filed for bankruptcy?

If you are (or were) a Debtor in a Chapter 7 or Chapter 13 Bankruptcy proceeding that was filed at any time after you obtained your loan from CBNV, you need to send a copy of this *Notice of Proposed Class Action Settlement and Settlement Hearing* to your bankruptcy trustee and your bankruptcy attorney.

9. What does the settlement provide?

The CBNV General Class has pursued various legal claims against Defendant, all related to the mortgage lending practices of CBNV. As noted, these claims include alleged violations of RESPA, TILA, HOEPA, and RICO.

The settlement provides for an ADR procedure, pursuant to which the CBNV General Class will have an opportunity to present evidence and make argument to a Panel of three arbitrators, each selected by the Court. The ADR procedure will be conducted pursuant to the Commercial Arbitration and Mediation Rules of the American Arbitration Association, as supplemented by the Federal Rules of Evidence, at the discretion of the Panel. After hearing evidence and argument from both parties, the Panel will choose either \$24 million or \$70 million as the total amount of class-wide relief to be made available to the CBNV General Class. There will be no right to appeal this decision. The Panel will also decide the appropriate allocation of the total settlement amount among the various sub-classes, as described in this Notice.

Regardless of which final settlement amount is decided by the Panel, Court-approved attorneys' fees, expenses, and plaintiff incentive awards, as discussed below, will be deducted from the final settlement amount before distribution to the CBNV General Class.

10. How do I participate in the settlement?

If you want to participate in the settlement, you do not need to do anything now. You are not required to submit a claim to participate in the settlement. If you qualify for settlement benefits, a check will be mailed to you. Settlement benefits will be paid only: (1) if the Court grants final approval of the settlement, (2) after any appeals are resolved, and (3) after the ADR procedure is completed and individual payment amounts are calculated. You are required, upon receipt of any such payment, to remit such payment to any person who has received, by assignment or operation of law, any right, title, or interest to or in that payment.

Joint borrowers, such as a husband and wife, will receive a single payment per loan, even if they are separated or divorced. Any Class Member who receives a payment under the settlement is personally and solely responsible for distributing or allocating the payment between or among any co-borrower(s), regardless of whether the check is made payable to all or only some of the co-borrowers. Class Members will also be responsible for paying any taxes due on any payment received and are strongly encouraged to consult with their own tax advisor concerning the tax effects of any money received pursuant to this settlement.

11. How much will my payment be?

There are 26,696 loans in the General Class. The precise amount any of the Class Members may receive is uncertain as it depends on which of the two proposed settlement numbers the Panel chooses, the amount of attorneys' fees and expenses that are awarded, and how the amount is allocated among the five Sub-Classes. Certain Class Members

have different claims and face different defenses. For example, the amount received by a Class Member may depend upon whether that Class Member is potentially subject to a statute of limitations defense.

The precise amount that any Class Member may receive also depends on a proration among the Class Members of each respective Sub-Class, based on factors like the actual (or estimated) amounts of certain costs associated with the closing of their loan and interest they paid over the life of their loan. Assuming the sum of known and unknown litigation expenses is \$600,000.00, and without consideration of the allocation factors noted above, it is the estimate of counsel for the Class that the settlements for individual borrowers could average approximately \$560 or \$1,680 per loan, depending on which total settlement amount the Panel chooses. Actual individual amounts received by Class Members may vary from the estimated average numbers. The unknown litigation expenses described in Section 18 below, however, will have a minimal impact on each individual Class Member's recovery.

Class Counsel will undertake best efforts to distribute all available settlement funds to class members, including redistributions if necessary and economically feasible. In the event there is a small amount of settlement funds remaining after distribution(s) of all payments to class members, the remaining funds will be distributed to not-for-profit entities that have objectives related as closely as possible to the purposes and remedies sought by the class action. These beneficiaries will be suggested by Class Counsel and are subject to approval by the Court at the appropriate time, if circumstances warrant.

12. When would I get my payment?

The Court will hold a hearing on December 13, 2016 at 9 a.m., to decide whether to finally approve the settlement, including the ADR process, as fair, reasonable and adequate to the General Class. If the Court approves the settlement, this matter will be dismissed with prejudice as to PNC pursuant to a Court Order requiring PNC to pay whichever of the two possible awards is entered unanimously by the Panel. Also, if there are objections to the settlement, there may be appeals, which could last several years and delay payment until the appeals are resolved. In addition, the ADR procedure will be conducted in early 2017, and it will take time to properly calculate individual payment amounts thereafter. If there are no appeals, it is estimated that payments to Class Members may be made in the middle of 2017.

13. What am I giving up to get a payment in the CBNV General Settlement Class?

Unless you exclude yourself from the CBNV General Class, you are staying in the CBNV General Class. That means you cannot sue, continue to sue, or be part of any other proceeding in the Court or lawsuit against CBNV or PNC arising out of or relating to the claims asserted in the MDL Litigation pertaining to your CBNV loan.

In addition, if you stay in the CBNV General Class, all of the Court's orders will continue to apply to you and legally bind you, including any final judgment entered by the Court as a result of this settlement. As a member of the CBNV General Class, you will be bound by any final judgment entered by the Court, which will have the effect of precluding the future assertion of similar claims against CBNV and/or PNC.

14. Can I exclude myself from the CBNV General Class?

If you do not wish to participate in this settlement, you must notify Class Counsel and Counsel for Defendant in writing that you wish to be excluded from the CBNV General Class. Your request to be excluded from the CBNV General Class must contain the following information: (1) name of the Class Member(s); (2) current address of the Class Member(s); (3) the date signed; and (4) reference to "*In re Community Bank of Northern Virginia Second Mortgage Lending Practices Litigation*, MDL No. 1674." **Any request for exclusion must be personally signed by each person who was a party to the promissory note in connection with the Class Member's CBNV Loan**, unless such person is deceased or incompetent. If a party to the promissory note is deceased, a request for exclusion may be signed by the personal representative of the deceased and a copy of the death certificate for such person must be submitted with the request for exclusion. If a party to the promissory note is incompetent, the guardian must sign the request for exclusion. No request for exclusion can be made on behalf of a group of Class Members or through an agent or attorney.

Your request for exclusion must be mailed to Class Counsel at either of the following addresses and postmarked no later than November 23, 2016:

Carlson Lynch Sweet, Kilpela & Carpenter, LLP
Re: *In re CBNV Second Mortgage Lending Practices Litigation*
1133 Penn Avenue
Fifth Floor
Pittsburgh, Pennsylvania 15222

or

Walters Bender Strohhahn & Vaughan, P.C.
Re: *In re CBNV Second Mortgage Lending Practices Litigation*
2500 City Center Square
1100 Main Street
Kansas City, Missouri 64105

If you request to be excluded from the CBNV General Class, you will not receive a payment, and you cannot object to the settlement.

15. If I don't exclude myself, can I sue the Defendant for the same thing later?

No. Unless you request exclusion, you will be bound by any final judgment entered by the Court and will be precluded from pursuing the claims described in this Notice in the future against CBNV and PNC. If you have a lawsuit or other claims against CBNV or PNC, speak to your lawyer immediately, because you may be required to exclude yourself from this Class in order to continue to pursue your other claims or lawsuit.

16. If I exclude myself, can I get a payment from this Settlement?

No. If you exclude yourself, you will not receive any payment from this Settlement.

17. Do I have a lawyer in this case?

Yes. The Court appointed: (1) R. Bruce Carlson and the law firm Carlson Lynch Sweet Kilpela & Carpenter, LLP, and (2) R. Frederick Walters and the law firm Walters Bender Strohhahn & Vaughan, P.C., as Co-Lead Counsel for the CBNV General Class and Sub-Classes ("Class Counsel"). You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will these lawyers be paid?

Class Counsel will seek the payment of litigation expenses and court costs incurred by Class Counsel from the CBNV General Class recovery, in an amount not to exceed \$450,000.00 for known expenses as of September 7, 2016, plus additional unknown expenses which will be incurred between September 7, 2016 and the final distribution of the settlement funds. These litigation expenses and court costs shall be awarded from the amount awarded in the ADR procedure, *i.e.*, either the \$24 million or \$70 million awarded by the Panel. Future expenses will include the following: (a) one half the fees and costs for the three-person Panel (the other half will be paid by PNC); (b) one half of the Special Master's and the Mediator's fees; (c) additional litigation expenses and costs reasonably incurred by Class Counsel to prepare for and conduct the arbitration and the final approval hearing; (d) settlement administration expenses; and (e) costs of providing notice to the class. Separately, Class Counsel will seek the payment of attorneys' fees not to exceed thirty-five percent (35%) of the final settlement amount for the CBNV General Class. Such fees pay Class Counsel for time spent investigating the facts, litigating the case, and negotiating the settlement. This case has been litigated for 15-plus years, including three appeals. In addition, Class Counsel will ask for incentive awards of \$3,750 to be paid to each of the 13 Named Plaintiffs in the MDL Litigation for their services as Class Representatives. Pursuant to the Settlement Agreement, the expenses, attorneys' fees, and incentive awards are to be determined by the Panel.

19. How can I object to the Settlement?

If you are a member of the CBNV General Class, you can object to any part of the settlement you do not like. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter to the Clerk of Court, U.S. District Court for the Western District of Pennsylvania, 700 Grant Street, Pittsburgh, PA stating that you object to the CBNV General Class settlement, referencing the case "*In re Community Bank of Northern Virginia Second Mortgage Lending Practices Litigation*, MDL No. 1674" along with an instruction to the Clerk of Court that your objection be entered on the docket. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the settlement. Your Objection must be postmarked no later than November 23, 2016 in order to be considered by the Court.

If you do not follow these instructions, the Court will not consider your objections and you will waive all objections and have no right to appeal if the settlement is approved.

20. What's the difference between objecting and excluding?

Objecting is simply telling the Court you do not like the settlement. You can object only if you stay in the CBNV General Class. If you object and the settlement is approved, you will still receive payment of your settlement benefits, but you will be bound by the final judgment.

Excluding yourself is telling the Court you do not want to be part of the CBNV General Class. If you timely exclude yourself, you will no longer be a member of the CBNV General Class, you will not participate in the settlement, and you have no basis to object because the settlement no longer affects you.

21. When and where will the Court decide whether to approve the settlement?

The Court will hold a hearing to decide whether to approve the settlement. This "Fairness Hearing" will be held on December 13, 2016 at 9 a.m. at the U.S. District Court, Western District of Pennsylvania, 700 Grant Street, 7th Floor, Pittsburgh, PA 15219. At this hearing, the Court will consider whether the settlement, including the ADR process, is fair, reasonable and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. The Court may also approve an award of expenses, attorneys' fees, and incentive awards to named plaintiffs. Specifically: (1) prior to the Final Approval Hearing, Class Counsel will file an application for an award of attorneys' fees and expenses and incentive awards; (2) the Court will determine the amounts these awards shall not unreasonably exceed, with instruction that the specific determination of all such awards be made by ADR Panel; and (3) the Panel will then decide the amount of these awards, as well as the total settlement amount. The Fairness Hearing may be postponed without further notice to you.

22. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer any questions the Court may have. But, you are permitted to come at your own expense. If you file an objection with the Court, although you may appear, it is not required that you appear at the Fairness Hearing. If you mail your written objection in compliance with the requirements described above, the Court will consider it. You may also pay your own lawyer to attend the Fairness Hearing at your own expense.

23. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter stating that it is your "Notice of Intention to Appear in Person or by Counsel." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than November 23, 2016, and be sent to the Clerk of the Court, U.S. District Court for the Western District of Pennsylvania, 700 Grant Street, Pittsburgh, PA, along with an instruction to the Clerk of Court that your "Notice of Intention to Appear in Person or by Counsel" be entered on the docket. You cannot speak at the hearing if you exclude yourself from the CBNV General Class and therefore the settlement.

24. How do I get more information?

The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the Class, the settlement, and related matters. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. For more detailed information, you may review the pleadings, records, and other papers on file in the MDL Litigation, which may be inspected during regular business hours in the office of the Clerk of the Court, U.S. Courthouse, 700 Grant Street, Pittsburgh, PA 15219. If you wish to communicate with Class Counsel or obtain a copy of the Settlement Agreement, you may call (800) 330-2581, (800) 330-2591, or (800) 467-5241, or email contact@carlsonlynch.com or cbnv@wbsvlaw.com, or write to the addresses provided in Section 14, above.

Please do not direct any inquiries to the Judge, Clerk, District Court, or PNC about this Notice or lawsuit. They will not be able to give you advice or answer your question.

So Ordered.

/s/The Honorable Arthur J. Schwab
United States District Judge

CBNV Notice Administrator
PO Box 11943
Birmingham, AL 35202-1943

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